

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

LEAGUE OF UNITED LATIN
AMERICAN CITIZENS INC,

Plaintiff,

v.

NATIONAL LEAGUE OF LATIN
AMERICAN CITIZENS, et al.,

Defendants.

Case No. [13-cv-04725-JSC](#)

**ORDER DENYING MOTION FOR
SHOW CAUSE ORDER**

Re: Dkt. Nos. 74, 83

Defendants move for an order requiring Plaintiff and its attorneys to show cause why they should not be held in contempt for failure to comply with this Court's attorney's fees order. After carefully considering the papers submitted by Defendants, the Court concludes that oral argument is unnecessary, *see* Civil Local Rule 7-1(b), and DENIES Defendants' motion. Defendants have not offered any authority for their assertion that a party is required to pay attorney's fees awarded in connection with a successful SLAPP motion before final judgment is entered.

DISCUSSION

This trademark infringement/fraud action arises out of a dispute involving the membership of Plaintiff League of United Latin American Citizens Inc. ("LULAC"). Plaintiff's complaint included a claim for abuse of process. By Order filed September 11, 2014, the Court granted Defendants' motion to strike the abuse of process claim pursuant to the anti-SLAPP statute, California Code of Civil Procedure 425.16, but denied the motion the strike as to all other claims in the action, including the federal claims. (Dkt. No. 46.) In light of the mandatory fee provision in the SLAPP statute, the Court subsequently granted Defendants' motion for fees incurred in connection with the abuse of process claim. (Dkt. No. 54.)

1 Defendants now seek an order to show cause why Plaintiff and its counsel should not be
2 found in contempt for failure to comply with the attorney's fees order; that is, for failure to
3 actually pay Defendants the amount awarded. The fatal flaw in Defendants' motion, however, is
4 they do not cite a single authority that suggests that a party is required to pay an award of SLAPP
5 fees before final judgment is entered and the party has had the opportunity to appeal. Defendants'
6 motion is therefore denied.

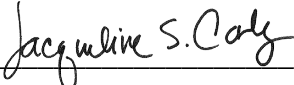
7 Defendants also seek an order to show cause why Plaintiff should not be found in contempt
8 for failure to file its motion for leave for late filing of its amended complaint. The Court
9 previously concluded that there was no basis for filing Plaintiff's motion under seal and ordered
10 Plaintiff to file an unredacted version by November 4, 2014. (Dkt. No. 54.) As of the date of this
11 Order, Plaintiff has still not filed an unredacted version of the motion. Accordingly, Plaintiff is
12 ordered to file in the public docket an unredacted version of its motion for leave for late filing of
13 its amended complaint by Monday, February 9, 2015. **If Plaintiff fails to do so, the Court will**
14 **consider imposing sanctions, including vacating its order granting leave for late filing and**
15 **therefore ordering dismissal of the case.** Further Plaintiff is precluded from filing any further
16 motions for leave to file a pleading under seal without first obtaining permission from the Court to
17 do so. In other words, if it wishes to seek leave to file a pleading under seal, it must first file a
18 public request with the court explaining why it will be seeking leave and the nature of the
19 information it wishes to hide from public disclosure. And, no party may file any pleading ex
20 parte, that is, without providing a copy of the pleading to the opposing side.

21 Finally, Plaintiff has filed a motion for leave to file a late reply to Defendants' motion for
22 an order to show cause. (Dkt. No. 83.) Plaintiff's motion is DENIED and the Court has not
23 reviewed nor considered its late-file opposition. Its lament that Defendants' motion was filed
24 under seal and therefore it is unable to know what issues Defendants' raised is untrue. The motion
25 is on the public docket for all to see, including Plaintiff.

26 This Order disposes of Docket Nos. 74 and 83.

27 **IT IS SO ORDERED.**

28 Dated: February 4, 2015



JACQUELINE SCOTT CORLEY
United States Magistrate Judge

United States District Court
Northern District of California

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28